

Title IV-E, Foster Care & Adoption Assistance

June, 2017

Title IV-E of the U.S. Social Security Act is an entitlement program jointly funded by the state and federal governments to support children removed from their homes voluntarily or by court order due to safety concerns related to “maltreatment, lack of care, lack of supervision, or other problems attributed to a relative caregiver.”¹ Federal funding is provided for foster care maintenance payments², adoption assistance payments³, and allowable administrative and training costs for eligible youth through the Department of Health and Human Services (HHS), Children’s Bureau (CB), Administration on Children & Families (ACF). The Department of Family Services (DFS) administers IV-E funds in Wyoming. In general, the federal match rate for Title IV-E costs is 50% for non-Tribal recipients and 83% (currently) for Tribal recipients.

Eligibility

To be eligible for federal financial participation (FFP), children must meet the following criteria:

- Be under the age of eighteen or eighteen, attending school full-time, and expected to graduate by age nineteen;
- Meet the Aid to Families with Dependent Children (AFDC) 1996 state plan eligibility standards during the month in which the child was placed (\$674/month income for a family of three);
- Be placed in a licensed foster home or institution meeting all safety requirements; and,
- Either a judicial determination has been made to place the child or the placement is a voluntary placement of 180 days or less.⁴ Voluntary placements over 180 days with no judicial determination are ineligible for FFP.
 - The initial order for removal must state that it is “contrary to the welfare” or the “best interests” of the child to return to the home;
 - A second order within 60 days finding “reasonable efforts to prevent removal” have been made; and,
 - Continued judicial reviews every 12 months must find that the state has made reasonable efforts to find a permanent home.

As of March 31st, 2017, Wyoming had 942 children in out-of-home placement. The Northern Arapaho Tribe has approximately 150 children in foster care and the Eastern Shoshone Tribe has approximately 30 children in foster care.

To ensure eligibility requirements are met, the agency administering the funds must set and enforce standards for the licensure and safety of foster homes and institutions, as well as work closely with the judicial system to ensure judicial determinations are appropriate and made in a timely manner. To comply with this, for example, the Department of Family Services has worked closely with the judicial system to create model court order templates for court-ordered placements.

¹ ACF, CB. “Title IV-E Foster Care Eligibility Reviews Fact Sheet.” <https://www.acf.hhs.gov/cb/resource/title-iv-e-reviews-fact-sheet>

² Sec 475 [42 U.S.C. 675]. “The term “foster care maintenance payments” means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child’s personal incidentals, liability insurance with respect to a child, reasonable travel to the child’s home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.”

³ Sec. 473 [42 U.S.C. 673] “...payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child....”

⁴ 45 CFR 1356.22. Retrieved from: <https://www.law.cornell.edu/cfr/text/45/1356.22>

Federal Funding

Federal financial participation (FFP) for maintenance payments and adoption assistance payments is equivalent to the state's federal medical assistance percentage (FMAP), currently 50% for Wyoming. Tribal FMAP is determined separately⁵ and is currently 83% for both the Northern Arapaho Tribe and the Eastern Shoshone Tribe.⁶ Allowable administrative costs are matched at 50% while training of agency staff and current or prospective foster or adoptive parents are matched at 75%.⁷ Allowable administrative costs include referrals, judicial determinations, placement, case management, recruitment of foster and adoptive parents, rate setting, overhead, and data collection and reporting.⁸ Non-allowable administrative costs include social services related to specific behaviors or activities to address the physical structure of the home. Allowable administrative and training costs are also matched, but are subject to the state's IV-E penetration rate, e.g. the proportion of all foster care cases which are eligible for federal IV-E reimbursement.

Similar to the Medicaid program, states have in the past been able to apply to the CB-ACF to waive provisions of Title IV-E to demonstrate cost savings via new and innovative methods of service delivery. For example, in 2014 Arizona was approved for a waiver capping Title IV-E funding to the state and allowing the state to use any funds not expended on traditional services to provide in-home services.⁹ Wyoming does not have an active waiver for Title IV-E funds, nor has it ever been granted a waiver for a demonstration project.¹⁰ The current waiver system will end in 2019 and it is unclear if additional waivers will be granted past that date.

Opportunities for Improvement

In 2012 DFS received funding from the Casey Family Programs to contract for a comprehensive review of the DFS programs and opportunities to increase federal IV-E revenues. The following opportunities for improvement have been identified by the 2012 report and by DFS staff and are under further review.

Aligning Federal and State Policies: Eligibility and Applicable Adoptions

Currently, some DFS eligibility policies are more stringent than federal eligibility requirements, which may reduce the number of children found eligible for IV-E reimbursement and lower the state's penetration rate. For example, DFS policy requires verification of school attendance, which is encouraged but not required by federal policy.¹¹ Additionally, the applicable child definitions for adoption have not yet been implemented and, therefore, federal IV-E funds are not being claimed on certain adoption cases.

Guardianship Assistance Program

States have the option to include a guardianship assistance program (GAP) through a state plan amendment to provide financial support to relative caretakers who become the legal guardians of children they previously cared for within the foster care system. GAP is not currently included in the Wyoming IV-E State Plan.

⁵ 42. USC§ 674. Retrieved from: <https://www.law.cornell.edu/uscode/text/42/674>

⁶ HHS, ACF. "Tribal FMAP Reference 2016-2017". https://www.acf.hhs.gov/sites/default/files/cb/tribal_fmap_reference_fy2017.pdf

⁷ 45 CFR 1356.60. <https://www.law.cornell.edu/cfr/text/45/1356.60#d>

⁸ 45 CFR 1356.60. <https://www.law.cornell.edu/cfr/text/45/1356.60#d>

⁹ Arizona Legislature. "Title IV-E Waiver Program Summary". <http://www.azleg.gov/jlbc/psdcstitleiv-ewaiver.pdf>

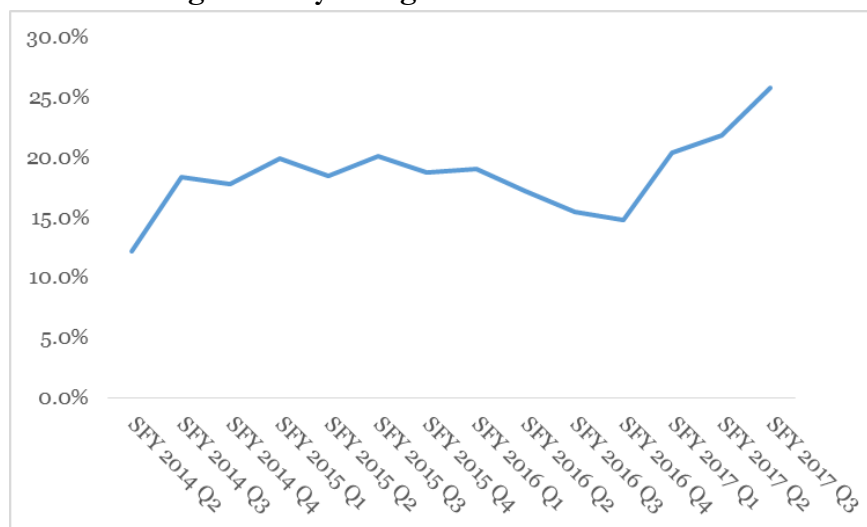
¹⁰ HHS, ACF, CB. "Child Welfare Waivers". <https://www.acf.hhs.gov/cb/programs/child-welfare-waivers>

¹¹ The 2015 Every Student Succeeds Act requires SEAs and LEAs to coordinate with child welfare to ensure "educational stability" for foster kids beginning in December of 2016, however school attendance is not required for IV-E FFP. <https://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf>

Increasing the Penetration Rate

The majority of opportunities to enhance federal IV-E revenues are tied to increasing the state penetration rate so that 1) more children are eligible for IV-E FFP for maintenance payments and 2) a greater portion of administrative and training costs are eligible for FFP. An SFY 2012 report found that Wyoming had the lowest penetration rate in the nation (12%) while the highest rate was reported by Florida (75%) and the national average was 51.6%.¹² Figure 1, below, illustrates changes in Wyoming's penetration rate since SFY 2014, with a recent increase to the current high of 25.8% in the third quarter of SFY 2017. The increase is due, in part, to the inclusion of SSI-eligible children in the penetration rate numerator. Note that few maintenance payments are made for SSI-eligible children, so the increase in the penetration rate has not increased the number of cases eligible for **maintenance payment FFP**; however it has slightly increased the amount of administrative and training costs that are eligible for FFP.

Figure 1. Wyoming IV-E Penetration Rate



Most children are found ineligible for IV-E due to **family income**. Note that Wyoming has high per capita income compared to other states and that, because the income eligibility threshold has not changed since 1996, inflation is slowly reducing the number of children eligible for IV-E FFP.

Accessing FFP for Tribal Youth

At this time, no FFP has yet been collected for a tribal youth in Wyoming. Tribes have two options to access IV-E FFP -- contracting directly with the federal government under a tribal IV-E plan or with the State under the state IV-E plan. In 2015, The Northern Arapaho Tribe received a three year federal grant to support planning and implementation for a tribal IV-E agency to collect funds directly from the federal government. Due to the small number of children in foster care, the Eastern Shoshone Tribe was not eligible for the federal planning grant.

¹² DeVooght, K., Fletcher, M., & Cooper, H. 2012. "Federal, State, and Local Spending to Address Child Abuse and Neglect in SFY 2012" Retrieved from: <https://www.childtrends.org/wp-content/uploads/2014/09/SFY-2012-Report-for-Posting-July2015.pdf>